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SHORT LITERATURE NOTICES

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Lesser, H. (ed.): 2012, *Justice for Older People*. Amsterdam: Rodopi. 211 pages. ISBN 978-90-420-3490-7. Price: € 46.

The fifteen contributors to this volume share a belief that too often older people are not treated fairly and that their dignity as persons is not enough respected. They draw on factual knowledge and on philosophical ethics to argue that what is going on is wrong.

The first section is about older adults' right to dignity and begins by stating in what ways older patients' human rights (e.g. right to privacy, right not to be treated degradingly) are not always protected in health care. An exploration of different conceptions of dignity and of how post-war social policy has regarded older adults shows that although the language of dignity has been refined since, it will forever shift, leaving a continuing need for "articulating anew a sense of intrinsic value, of *Menschenwürde*, that will challenge the instrumental reason that is dominant in capitalist economic activity" (p. 31). Threats to dignity in terms of social inequality or psychological distress arise from current policy trends that see citizens as personally responsible for their health, and are accentuated further by our widely accepted biomedical view of ageing as an 'illness' that requires anti-aging medicine. To avoid discrimination of those who in this view fail to age successfully, alternative conceptions of what ageing really is are needed, including that ageing can be experienced as successful even when health diminishes. Threats to dignity caused by loneliness remind us that older adults who find themselves moved to hospitals due to their health condition have a right to be given wholehearted attention by the staff; this "is not charity but an obligation" (p. 49).

The second part of the book deals with the right to autonomy. It starts by defining autonomy, followed by an exploration of the effects of ageing on autonomy which concludes that age as such must be an irrelevant factor, whereas external factors (other peoples' behavior) or internal factors (irrationality) can restrict an older person's autonomy just as it can a younger person's. Older patients are often unjustly thought to be less capable of decision-making and several ways of promoting patient autonomy in different clinical and cultural contexts are proposed. Broadening the topic and claiming that the ageing of our society should be seen as an achievement and not as a burden, several pathways to change negative attitudes and promote autonomy of older adults are discussed: prevention of disease and disability, intergenerational dialog and openness to genetic and cellular research (rather unexpectedly in this context, but it is argued that besides ongoing ethical debates and depending on how this research will develop, older adults might profit immensely from advances in this field).

The fundamental question addressed in the third part of this book concerns the (just) distribution of resources: if people's health needs exceed the available resources (which they probably always will), then can age ever be justified as a criterion for rationing or withholding treatment? The answer is no. The authors consider different models of justice that have defended age discrimination to some extent, showing that none of them stand up to ethical or practical scrutiny. The last chapter discusses whether it can be right for a doctor to give a patient treatment that goes against official guidelines and suggests this issue be guided by virtue ethics.

Although most papers relate to the situation in the UK, the issues discussed are universal and offer a rich fund of

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factual and philosophical arguments useful for all those who seek to improve how older adults are (and our future selves will be) valued and treated.

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Callard, F. et al.: 2012, *Mental Illness, Discrimination and the Law. Fighting for Social Justice*. Oxford: Wiley-Blackwell. 348 pages. ISBN 978-1-119-95354-8. Price € 82.70.

This book represents an important call to cross-disciplinary dialogue at the intersection of mental health and the law. It occupies a functional space by presenting an accessible, international review of legislation from across social spheres that affects the lives of people with mental health problems. It achieves this via input from experts and informants from fields as diverse as medicine, law, psychology, and beyond.

The underlying tenet of the volume is to galvanise an international movement that seeks to progress from a risk-based approach to mental illness, towards a rights-based approach, with a view to achieving social justice for people with mental health problems. To realise this, it advocates the use of legislation to alleviate the discrimination and abuse that such individuals experience across specific sectors. Central to its directive, is an emphasis on positive action through participation in the community, and the implementation of effective enforcement mechanisms.

The book can be divided into 3 core constituents: conceptual (chapters 2 and 13), practical (chapters 3–12) and resource-orientated (chapters 14–16). Throughout, it makes use of legislative case studies, report excerpts and brief vignettes to illustrate current approaches; in doing so, it both documents and promotes the shift towards social justice.

Chapter 2 introduces the reader to the guiding theoretical threads underlying the topics addressed, including discrimination, social models of disability and human rights. Chapters 3 to 10 are devoted to a practical exploration of legislation from a cross-section of societal domains which impact the lives of people with mental illness, including employment, education and healthcare. The analysis does not extend to every domain that could have been covered, for example, the prison system; however, there is enough here to provide an effective context from which a framework of social justice can emerge. The book's constructive approach culminates in chapters 11 and 12, where policy and legislation which promote mental health is championed, and implementation and enforcement of legal reforms deemed vital.

Conceptual underpinnings resurge in chapter 13 where the central precepts of the book are summarised in the context of the empirical analysis. This chapter issues a robust "call to action" for engagement with rights-based legislation as a tool to push for social justice for people with mental illness. Chapters 14 to 16 comprise a series of helpful references, including summaries of relevant instruments and legislation, and details of organisations and resources.

This is an accessible and practical guide that will be of interest to readers from diverse backgrounds, including service users, NGOs, clinicians, legislators and those who work in the sectors reviewed. Though the pro-active approach of the book is laudable, the authors recognise that what is needed to combat social injustice is a thorough societal shift, and that is no easy task. This text serves to move the conversation in the right direction.

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Schildmann, J., Gordon, J.-S., Vollmann, J. (eds.): 2010, *Clinical Ethics Consultation. Theories and Methods, Implementation, Evaluation*. Farnham: Ashgate. 250 pages. ISBN: 978-1409405115. Price: £57.00.

We both work as clinical ethicists in one of Switzerland's biggest University Hospitals. In our daily work, we self-critically pose ourselves questions about our methods, our ways of implementing structures of clinical ethics support services and how to evaluate our consultant's work. This is exactly what this edited volume is about. This is why this volume is a useful contribution to this kind of self- critical reflection within the context and field of clinical ethics in modern health care systems.

The volume is divided into three parts: (1) Theories and Methods, (2) Implementation, and (3) Evaluation of Clinical Ethics Consultation (CEC). The contributions are written by different authors from different parts of Europe (U. Fahr, M. Rothaar, G. Widdershoven, B. Molewijk, L. Kovacs, C. Stüber, B. Hermann, N. Comoretto, N. Chikhladze, N. Pitskhelauri, A. Borovecki, M. Stopler, S. v d. Dam, D. Strech, S. Aleksandrova, G. Bollig—and contributions by the editors themselves). The editors emphasize (p. 2) that the contributions have been streamlined to especially focus on *interdisciplinary* perspectives.

Part one of the volume, *Theories and Methods*, primarily discusses the question about which ethical theories and methods suit best for the field of CEC. John-Stewart Gordon for example analyses three different ethical approaches: principle ethics, casuistry, and the principlism (of Beauchamp and Childress). He explores some of the

strengths and weaknesses of the theories. In addition, he clearly stresses that a professional clinical ethicist needs a proper education in ethics. This is a controversial topic: does a clinical ethicist need to be a specialist in ethical theory? Guy Widdershoven and Bert Molewijk take this point from a different angle. Their ethicist is a *facilitator*. This kind of ethicist starts from experience. To them, clinical ethics is a form of practical understanding that can be supported and promoted by a trained facilitator. The facilitator is trained in conversation methods, but does not necessarily need a special education in (theoretical) ethics.

The second part of the book—*Implementation*—addresses issues that most people do not imagine to be present before really starting to work in the field: the difficult obstacles and different challenges of any kind of implementation process. How to really make clinical ethics work in practice? Every clinical ethicist needs to think about this kind of questions, both at the micro-level (for example on the wards in nursing homes and/or hospitals) and at the macro-level (talking about organizational levels of hospital and so on). It is more than interesting to read that obstacles in Western Europe vary from the challenges of so called *transitional countries* of Eastern Europe. There, talking about Georgia and Croatia, *legal* frameworks of patient rights and biomedical norms have to be established first. Then people have to be trained in medical ethics. Jochen Vollmann even dares to address the potential skepticism of staff members. If ethics is something *new*, then certain staff members might even react hostile towards the implementation efforts.

Part three of the book addresses a currently hotly debated issue: *Evaluation*—can we measure our impact as ethicist? Is ethical quality to be validated? This part is the smallest section of the book, but—in our perspective—the biggest intellectual challenge of this volume. It is especially the final text of Schildmann and Vollmann that provides a helpful overview to the methodological complexities at stake.

In sum, the book gives a rich and well-balanced overview. It is definitely appropriate for researchers, scientists, and healthcare professionals, who either engage or want to engage in the field. Clinical Ethics Consultation started out in the United States in the early 1970s. Forty years later, this volume clearly shows the academic evolution of the field. Let's see what lies ahead of us, let's see whether clinical interdisciplinarity can really become an endeavour of mutually existing different disciplines.

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Joerden, J., Hilgendorf, E., Petrillo, N., Thiele, F. (eds.): 2012, *Menschenwürde in der Medizin: Quo vadis*? Baden–Baden: Nomos. 489 pages. ISBN 978-383297044. Price: € 98.00.

Can any normative conclusions relating to medical technology be drawn from the concepts of human dignity and the image of humanity? This question constitutes the central inquiry of this volume, which seeks to provide a deeper understanding of the meaning and role of the principle of human dignity in the medical field. The book is the result of the work of the Research Group "Challenges to the Image of Humanity and Human Dignity by New Developments in Medical Technology" at the Center for Interdisciplinary Research (*Zentrum für interdisziplinäre Forschung*, ZiF), at the University of Bielefeld, Germany. The book collects the papers presented at various workshops held by the Research Group during the academic year 2009/2010, which were led by Jan C. Joerden, Eric Hilgendorf and Felix Thiele and coordinated by Natalia Petrillo. The book is the volume 52 of the serial *Interdisciplinary Studies to Law and State*. It continues to explore the notion of human dignity initiated in volume 50, published in 2011 under the title *Menschenwürde und moderne Medizintechnik*. While this later was focused on the conceptual foundations of human dignity and the image of humanity, volume 52 discusses the significance of human dignity for medical practice.

The volume offers a broad spectrum of scholarly discussion and includes 28 contributions from various disciplines such as philosophy, law, medicine, theology, psychology and biology. The first chapter, which focuses on human dignity in health care, makes it clear the ambivalent ethical conflicts that happen at the very beginning and at the end of life. The second chapter suggests that human dignity does not offer per se easy and clear-cut solutions to the challenges posed by medical technologies, but determines a framework within which solutions have to be developed by means of legal norms. The following chapters deal with brain interventions, eugenics, and mutations of human beings. Finally, the volume concludes with a memorandum of eleven theses by the editors expressing the importance of human dignity in medicine. Even if there is not a simple solution in every situation, one point is clear: The law has to find an answer to the new questions offered by biological and technological progress. How can human dignity be applied in the field of medicine? The response proposed by the editors is that it is not human dignity as a *constitutional right* that offers a solution, but dignity as a *constitutional value*. Keeping in mind the different functions of human dignity one can accept that in the application of law, the constitutional right of human dignity should be based on the broad significance of human dignity as a foundational value both in the legal and moral fields.

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McCarthy, J., Donnelly, M., Dooley, D., Campbell, L., Smith, D.: 2011, *End-of-Life Care. Ethics and Law*. Cork: Cork University Press. 468 pages. ISBN 978-1859184813. Price: €25.00.

In the past four decades, reflections about the goals of medicine have lead to important developments not only in legislation, but also in the ethical awareness of the issues at stake. Among them, the care of the seriously ill and dying has occupied from the beginning a prominent place in the public discussions, as it is reflected in the activities of courts, legislative bodies and ethical committees. Together with the rise of palliative care as a specialty characterized by a holistic approach, these issues have shown a shift in obligations to healthcare professionals and proxies. In the meanwhile, the ethical and legal discourse have reached a high level of specialization which reflects the complex nature of the issues at stake, but risk to remain inaccessible for clinicians and laypersons.

The volume under review overcomes this strong separation of the clinical sphere from the sphere of legal and ethical discussion. Developed for the Hospice Friendly Hospitals Programme of the Irish Hospice Foundation, the authors, stemming predominantly from a healthcare ethics education background, depart from the normative standpoint of drawing "on a range of values and principles that have been identified as important considerations in end-of-life decision making" (p. 9). They observe that, although most people want to die in an environment that is familiar to them, a majority dies in healthcare institutions, where the majority of decisions regarding end-of-life care takes place. Here, the scope of the Ethical Framework the authors offer is to help clinicians, patients, relatives, but also managers and laypersons to enhance communicative skills, provide accessible information, and increase the competence of healthcare institutions in dealing with the complexity of end-of-life issues (p. 13). In assessing the needs of patients, relatives, caregivers and society the authors rely on a consistent body of national empirical research.

The book is divided into 8 chapters which share the same format. The educational focus of the publication allows using each single chapter as a comprehensive and easily readable basis for activities of continuous professional development or interprofessional education. The topics of the chapters are: Explaining ethics, breaking bad news, healthcare decision-making, patient autonomy, pain management, life prolonging treatments, confidentiality and privacy, ethical governance in clinical care and research. Learning goals and activities as well as further sources are provided for each topic. Definitions, background information, a systematic explanation of key themes, paradigmatic legal cases (most of them stemming from the Irish and UK context) and case studies from practitioners contribute in giving a broad picture of the different domains, in which legal, ethical and practical aspects emerge.

Although written from an Irish background, the book is a highly valuable instrument for clinicians of the medical, nursing and social professions who work with patients at the end of life and seek for a common ground of a culture of sustainable decision making. By combining a scientific approach which a non-technical language, it contributes in narrowing the split between the philosophical, legal and clinical debate surrounding the end of life. Nevertheless, the claim of such an ample and easily accessible source is challenging. It brings to light a series of open questions. The first is the threshold from the reduction of normative complexity to oversimplification, e.g. in presenting assisted suicide merely from a narrow point of factual jurisdiction (p. 175 ss.). Something similar can be said about the problems related to advance directives and palliative sedation. The second refers to the choice of topics. Of course, all of them have ethical and legal foundations, but for some of them, the relationship to end-of-life issues is more general than specific (e.g. breaking bad news and other communicative issues). The third refers to the challenge of offering an orientation that equally and fully covers the perspectives and interests of decision makers, institutions, those affected by the decisions as well as the public. Perhaps this scope would have been better reached by addressing separately patient education and professional education.

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Broom, A. and Adams, J. (eds.): 2012, *Evidence-Based Healthcare in Context. Critical Social Science Perspectives*. Farnham: Ashgate. 210 pages. ISBN 978-0754679813. Price: £55.00.

Some years ago I told a colleague about a critical paper on EBM (evidence-based medicine) I was preparing. "*Which* EBM?" was his reply. This discussion came to my mind when I was reading the new collection of essays looking at evidence-based healthcare from a critical social science perspective. My colleague referred to the many understandings of EBM and to the lack of critical discussion of these understandings.

This book, edited by two Australian scholars, does not add much to *this* discussion but provides many fresh views that complement the general picture of EBM and related areas. It demonstrates very well the nature of EBM as a social movement and the "bumpy road" of the implementation of EBM and other models. Most of the chapters report empirical qualitative research and discuss its implications. One chapter is more theoretical and builds upon the work of, e.g., Foucault, Deleuze and Guattari.

The empirical part of the volume provides some really interesting and also surprising results. One example is from Stefan Timmermans and Alison Angell who show that the introduction of EBM in post-graduate medical education may generate new forms of uncertainty, which is, of course, contrary to the original idea of EBM.

The theoretical chapter emphasises the political nature of evidence-based practices and argues for a discourse that allows multiple perspectives reflecting the actuality of clinical practice. The conclusions of this chapter are clear but I am not sure that vague concepts borrowed from French philosophers were necessary to reach those conclusions.

The nature of evidence is discussed in depth throughout the book, and the following citation from *The Birth Wars* by MacColl (2009) summarises the discussion nicely: "… different experts have different opinions often supported by different elements of available research".

I missed, however, the question "what" in many parts of the book. Concepts like EBM and CAM (complementary and alternative medicine) were almost always taken for granted and problems related to the concepts as such were either neglected or mentioned in passing. In sum, even with these shortcomings, the book is essential reading for anybody interested in an "outsider's" critical look at evidence-based healthcare.

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